

AMENDED IN SENATE AUGUST 15, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 636

Introduced by Assembly Member Hall

February 20, 2013

An act to amend Section ~~25502.2~~ 25503.4 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 636, as amended, Hall. Alcoholic beverages: tied-house restrictions.

(1) Existing law, known as tied-house restrictions, prohibits specified licensees from furnishing, giving, or lending money or other things of value, directly or indirectly, to a person engaged in operating, owning, or maintaining an off-sale licensed premises. Existing law permits, until January 1, ~~2015~~ 2016, the appearance of a person employed or engaged by an authorized licensee at a promotional event held at the premises of an off-sale retail licensee for the purposes of providing autographs, subject to specified conditions. Existing law generally prohibits a winegrower, a California winegrower's agent, importer, or other specified parties from providing a licensee alcoholic beverages as a free good as a part of any sale or transaction involving alcoholic beverages or furnishing anything of value to a licensee for specified purposes. Existing law excepts from this prohibition a winegrower, California winegrower's agent, importer, or other specified parties when conducting or participating in an instructional event for consumers held at a retailer's premises featuring wines produced by or for the winegrower or imported by the importer, subject to specified conditions. The Alcoholic Beverage Control Act provides that a violation of any of its

provisions for which another penalty or punishment is not specifically provided is a misdemeanor.

This bill would permit, ~~until January 1, 2015, under specified conditions, the appearance of a person for the purpose of providing autographs at an instructional event for consumers that a winegrower, California winegrower’s agent, importer, or other specified parties conduct, or participate in, that is held at a retailer’s premises appearing at an instructional event, as specified, to provide autographs to consumers on consumer advertising specialties given by the person to a consumer or on any item provided by a consumer.~~ The bill would expand the definition of an existing crime, thus imposing a state-mandated local program. *The bill would also prohibit a requirement of the purchase of any alcoholic beverage in connection with the autographing.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25503.4 of the Business and Professions
2 Code is amended to read:

3 25503.4. (a) Notwithstanding any other provision of this
4 division, a winegrower, California winegrower’s agent, wine
5 importer, or any director, partner, officer, agent, or representative
6 of that person, may conduct or participate in, and serve wine at,
7 an instructional event for consumers held at a retailer’s premises
8 featuring wines produced by or for the winegrower or, imported
9 by the wine importer, subject to the following conditions:

10 (1) No premium, gift, free goods, or other thing of value may
11 be given away in connection with the instructional event by the
12 winegrower, California winegrower’s agent, wine importer, or
13 retailer, except as authorized by this division.

14 (2) No alcoholic beverages may be given away in connection
15 with the instructional event except that minimal amounts of wine,
16 taken from barrels or from tanks, may be supplied and provided

1 as samples at the instructional event. A person authorized by
2 subdivision (a) may also provide no more than three one-ounce
3 tastes of wine per consumer at the instructional event from bottles
4 of wine provided by the authorized person. For purposes of this
5 section, minimal amounts of the samples or tastes provided at the
6 instructional event do not constitute a thing of value. Following
7 the instructional event, any unused wine provided by the authorized
8 person shall be removed from the retailer's premises by the
9 authorized person.

10 (3) No alcoholic beverages may be sold at the instructional
11 event, except that orders for the sale of wine may be accepted by
12 the winegrower if the sales transaction is completed at the
13 winegrower's premises.

14 *(b) Notwithstanding Section 25502.2, a person identified in*
15 *subdivision (a) appearing at an instructional event described in*
16 *subdivision (a) may, in addition to other permitted activities,*
17 *provide autographs to consumers on consumer advertising*
18 *specialties given by the person to a consumer or on any item*
19 *provided by a consumer. No purchase of any alcoholic beverage*
20 *shall be required in connection with such autographing.*

21 ~~(b)~~

22 (c) Notwithstanding any other provision of this division, a
23 winegrower, California winegrower's agent, or wine importer, in
24 advance of an instructional event for consumers being held at a
25 retailer's premises, may list in an advertisement the name and
26 address of the retailer, the names of the wines being featured at
27 the instructional event, and the time, date, and location of, and
28 other information about, the instructional event, provided:

29 (1) The advertisement does not also contain the retail price of
30 the wines.

31 (2) The listing of the retailer's name and address is the only
32 reference to the retailer in the advertisement and is relatively
33 inconspicuous in relation to the advertisement as a whole. Pictures
34 or illustrations of the retailer's premises and laudatory references
35 to the retailer in these advertisements are not hereby authorized.

36 ~~(e)~~

37 (d) Notwithstanding any other provision of this division, the
38 name and address of a winegrower, wine importer, or winegrower's
39 agent licensee, the brand names of wine being featured, and the
40 time, date, location, and other identifying information of a wine

1 promotional lecture at retail premises may be listed in advance of
2 the event in an advertisement of the off-sale or on-sale retail
3 licensee.

4 (d)

5 (e) Nothing in this section authorizes a winegrower, wine
6 importer, or winegrower's agent licensee to share in the costs, if
7 any, of the retailer licensee's advertisement.

8 (e)

9 (f) Nothing in this section authorizes any person to consume
10 any alcoholic beverage on any premises licensed with an off-sale
11 retail license.

12 SECTION 1. ~~Section 25502.2 of the Business and Professions~~
13 ~~Code is amended to read:~~

14 ~~25502.2. (a) A person employed or engaged by an authorized~~
15 ~~licensee may appear at a promotional event at the premises of an~~
16 ~~off-sale retail licensee, or at an instructional event held at a~~
17 ~~retailer's premises pursuant to Section 25503.4, for the purpose~~
18 ~~of providing autographs to consumers at the promotional event~~
19 ~~only under the following conditions:~~

20 ~~(1) A purchase from the off-sale retail licensee is not required.~~

21 ~~(2) A fee is not charged to attend the promotional event.~~

22 ~~(3) Autographing may only be provided on consumer advertising~~
23 ~~specialities given by the authorized licensee to a consumer or on~~
24 ~~any item provided by the consumer.~~

25 ~~(4) The promotional event does not exceed four hours in~~
26 ~~duration.~~

27 ~~(5) There are no more than two promotional events per calendar~~
28 ~~year involving the same authorized licensee at a single premises~~
29 ~~of an off-sale retail licensee.~~

30 ~~(6) The off-sale retail licensee may advertise the promotional~~
31 ~~event to be held at its licensed premises.~~

32 ~~(7) An authorized licensee may advertise in advance of the~~
33 ~~promotional event only in publications of the authorized licensee,~~
34 ~~subject to the following conditions:~~

35 ~~(A) The advertising only lists the name and address of the~~
36 ~~off-sale retail licensee, the name of the alcoholic beverage product~~
37 ~~being featured at the promotional event, and the time, date, and~~
38 ~~location of the off-sale retail licensee location where the~~
39 ~~promotional event is being held.~~

1 ~~(B) The listing of the off-sale retail licensee’s name and address~~
 2 ~~is the only reference to the off-sale retail licensee in the~~
 3 ~~advertisement and is relatively inconspicuous in relation to the~~
 4 ~~advertisement as a whole, and the advertisement does not contain~~
 5 ~~any pictures or illustrations of the off-sale retail licensee’s premises~~
 6 ~~or laudatory references to the off-sale retail licensee.~~

7 ~~(8) A wholesaler does not directly or indirectly underwrite,~~
 8 ~~share in, or contribute to any costs related to the promotional event,~~
 9 ~~except that a beer and wine wholesaler that holds at least six~~
 10 ~~distilled spirits wholesaler licenses may directly or indirectly~~
 11 ~~underwrite, share in, or contribute to any costs related to a~~
 12 ~~promotional event for which the wholesaler employs or engages~~
 13 ~~the person providing autographs to consumers at the promotional~~
 14 ~~event.~~

15 ~~(9) The authorized licensee notifies the department in writing~~
 16 ~~of the promotional event at least 30 days in advance of the~~
 17 ~~promotional event.~~

18 ~~(10) The authorized licensee maintains records necessary to~~
 19 ~~establish its compliance with this section.~~

20 ~~(b) For purposes of this section, “authorized licensee” means a~~
 21 ~~manufacturer, winegrower, manufacturer’s agent, California~~
 22 ~~winegrower’s agent, rectifier, importer, brandy manufacturer,~~
 23 ~~brandy importer, or wholesaler.~~

24 ~~(e) This section shall remain in effect only until January 1, 2016.~~

25 SEC. 2. No reimbursement is required by this act pursuant to
 26 Section 6 of Article XIII B of the California Constitution because
 27 the only costs that may be incurred by a local agency or school
 28 district will be incurred because this act creates a new crime or
 29 infraction, eliminates a crime or infraction, or changes the penalty
 30 for a crime or infraction, within the meaning of Section 17556 of
 31 the Government Code, or changes the definition of a crime within
 32 the meaning of Section 6 of Article XIII B of the California
 33 Constitution.